

THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

COMMODITY FUTURES TRADING	)	7:05CV5026
COMMISSION,	)	
	)	
Plaintiff,	)	
vs.	)	<b>MEMORANDUM</b>
	)	<b>AND ORDER</b>
TODD J. DELAY, JACK McCaffery,	)	
and JOHN D. LAWLESS,	)	
	)	
Defendants.	)	

On motions filed by the plaintiff Commodity Futures Trading Commission (filings 242 and 293), the court previously dismissed without prejudice the plaintiff's action as against the defendants John D. Lawless and Jack McCaffery. (Filings 252 and 298.) The plaintiff's motions to dismiss recited that each of these defendants had agreed to provide truthful testimony at trial, to cooperate with the Commission in the prosecution of the case, and to waive all claims under the Equal Access to Justice Act for costs, fees, and other expenses.

After the parties had rested in the trial of the liability phase of this case, the defendants Lawless and McCaffery, through their respective counsel, orally moved to convert their dismissals without prejudice into dismissals with prejudice. There being no objection, the oral motion was granted. Accordingly,

IT IS ORDERED that:

1. Plaintiff's action against the defendant John D. Lawless is dismissed with prejudice, with each party to bear their own costs, fees, and expenses.

2. Plaintiff's action against the defendant Jack McCaffery is dismissed with prejudice, with each party to bear their own costs, fees, and expenses.
3. There being no just reason for delay, judgment shall be entered by separate document pursuant to Federal Rule of Civil Procedure 54(b).

May 11, 2006.

BY THE COURT:

*s/ Richard G. Kopf*  
United States District Judge